

REMARKS

In the Advisory Action dated March 3, 2009, the Examiner asserts that: "For the response to the last office action to be fully responsive, Applicants are respectfully requested to cancel the withdrawn claims 18-28."¹ However, the Applicants submit that this request is premature.

In the restriction requirement dated July 6, 2007, the examiner previously stated that:

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a).²

Because of this potential for rejoinder, the Applicants reserve the right to maintain claims 18-28 as withdrawn during the course of prosecuting the elected subcombination. Accordingly, the Applicants submit that it is premature and improper for the Examiner to require cancellation of claims 18-28.

Therefore, the Applicants submit that the response filed on February 24, 2009 is fully responsive and request entry of the amendments contained therein.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: _____

March 26, 2009

S. M. Dean

Sean M. Dean, Ph.D., J.D.
Reg. No. 46,656

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (877) 769-7945

22159631.doc

¹ See Advisory Action dated March 3, 2009 at page 2.

² See Office Action dated July 6, 2007 at page 3.